

flange extending upwardly and said lower flange extending downwardly from said tape and positioned substantially perpendicular to said tape, and

said top side and said bottom side having identical graduated indicia extending along substantially the entire length of said tape, said indicia comprising a measuring scale.

REMARKS

Before entry of this Amendment, claims 1 – 5 were pending under examination in the Application. Applicants have carefully considered the Office Action of 01 October 2002, and the references cited within. The following is a brief summary of the Action:

The Drawings were objected to as not including reference numbers 25 and 40, as stated on page 7, lines 2 and 12 respectively, of the Specification. The Examiner's Action also objected to the Specification because, on page 10, line 13, it appeared a portion of a word was omitted. Claims 1 and 4 were rejected under 35 U.S.C. §102(b) as anticipated by Canfield (U.S. Patent No. 5,515,617). The Office Action also rejected Claims 1, 3, and 4 under 35 U.S.C. §103(a) as being unpatentable over Hoffman (U.S. Patent No. 5,894,677) in view of Quenot (U.S. Patent No. 3,004,346). Lastly, Claims 2 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hoffman (U.S. Patent No. 5,894,677) in view of Quenot, as applied to Claims 1, 3, and 4 above, and further in view of Knispel et al (U.S. Patent No. 5,210,956).

The Office Action objected to the Drawings, as not including reference numbers 25 and 40, as stated on page 7, lines 2 and 12 respectively, of the Specification. Corrected Drawings have been submitted herewith.

Page 10, line 13 of the Disclosure was objected to because a portion of a word was inadvertently omitted. The omission has been corrected and the assistance of the Examiner is gratefully acknowledged in identifying this and the above-referenced Informalities.

The Examiner's Office Action rejected Claims 1 and 4 under 35 U.S.C. §102(b) as anticipated by Canfield (U.S. Patent No. 5,515,617). Canfield's measuring tool, cited by the Examiner as disclosing a tape having identical graduated indicia on both the top and bottom sides, provides: an extensible tape measure; a guiding means for guiding the tape measure along the edge of a work piece; a locking means; and an attachment means (Abstract and claims 1 and 3 of Canfield).

Applicants have amended the transitional phrase of independent claim 1 to "consisting essentially of" to clarify the present invention. Applicants respectfully point out that, in contrast to the present invention, Canfield's measuring tool ~~discloses~~ additional elements, including a guiding means, not present in Applicant's tape measure. Accordingly, Applicants submit that claim 1, as

amended herein, and Claim 4 depending therefrom are patentable under 35 U.S.C. §102(b) over Canfield.

The Office Action also rejected claims 1, 3, and 4 under 35 U.S.C. §103(a) as being unpatentable over Hoffman (U.S. Patent No. 5,894,677) in view of Quenot (U.S. Patent No. 3,004,346). Hoffman is cited as disclosing a measuring device having a housing; a tape outlet; and a tape having graduated indicia extending along substantially the entire length of the top side of the tape. Although pointing out that Hoffman lacks identical markings on the top and bottom sides of the tape, the Examiner's Office Action cites Quenot as teaching the use of a tape having scales on the top face and bottom face of the tape and states it would have been obvious to a person having ordinary skill in the art to add markings, as taught by Quenot, to the bottom side of the tape of Hoffman in order to be able to use the tape with either side upward, as suggested by Quenot.

Applicants respectfully maintain however that, although Quenot teaches a tape having an upper face with a first scale and a lower face with a second scale, the first scale has its point of origin coincident with the outer free end of the tape while the point of origin of the second scale is spaced inwardly from the free end of the tape (independent claim 1 and lines 40 - 47, col. 2 of Quenot).

In contrast to the measuring device disclosed by Quenot, the present invention contemplates a measuring tape having a top side and a bottom side with identical indicia (Independent claim 1, as amended herein, and lines 15–20, page 6 of Applicants' Specification). Accordingly, Applicants respectfully submit that Quenot does not cure the deficiencies of Hoffman, as discussed above, and maintain that claims 1, 3, and 4, as amended herein, are patentable under 35 U.S.C. §103(a) over Hoffman and Quenot.

Lastly, claims 2 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hoffman (U.S. Patent No. 5,894,677) in view of Quenot, as applied to claims 1, 3, and 4 above, and further in view of Knispel et al (U.S. Patent No. 5,210,956 teaching a measuring device having an attachment clip).

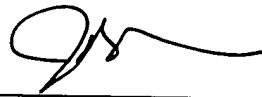
Applicants respectfully submit, however, that because dependent claims 2 and 5 serve to further limit and define independent claim 1 and claim 1, as amended herein, is patentable over the cited prior art for the reasons discussed above, dependent claims 2 and 5 are also patentable under 35 U.S.C. §103(a) over Hoffman in view of Quenot and further in view of Knispel et al.

In summary, it is submitted that Applicants' claims presently in the Application are patentable over the prior art of record, and that the present Application is in condition for allowance. A marked-up version of the amended claims, showing additions or deletions, is appended hereto. Also appended

hereto, for the Examiner's convenience, is an unmarked version of pending claims incorporating all of the amendments herein. Accordingly, all claims of the application are now believed to be in a condition for allowance and favorable action is therefore respectfully requested.

The Examiner is invited to telephone the undersigned at her convenience, should any issues remain after consideration of the present Amendment, to permit early resolution of same. If any extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension.

Respectfully submitted,



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Version with Markings to Show Changes Made

1. (Amended) A tape measure [comprising] consisting essentially of:

a housing having a top wall and a bottom wall separated by a first spaced end wall and a second spaced end wall;

an opening disposed in said first spaced end wall;

a tape having a top side and a bottom side, said tape comprising an extendable length of substantially strong and durable, yet bendable material retractably disposed within said housing, said tape including an attachment end and a terminal end;

said tape being normally, retractably stored in said housing with said attachment end fixedly secured within said housing and said terminal end protruding through said opening and being at all times exteriorly accessible of said opening;

said terminal end having an upper flange and a lower flange, said upper flange extending upwardly and said lower flange extending downwardly from said tape and positioned substantially perpendicular to said tape, and

said top side and said bottom side having identical graduated indicia extending along substantially the entire length of said tape, said indicia comprising a measuring scale.

Version with Pending Claims

1. (Amended) A tape measure consisting essentially of:

a housing having a top wall and a bottom wall separated by a first spaced end wall and a second spaced end wall;

an opening disposed in said first spaced end wall;

a tape having a top side and a bottom side, said tape comprising an extendable length of substantially strong and durable, yet bendable material retractably disposed within said housing, said tape including an attachment end and a terminal end;

said tape being normally, retractably stored in said housing with said attachment end fixedly secured within said housing and said terminal end protruding through said opening and being at all times exteriorly accessible of said opening;

said terminal end having an upper flange and a lower flange, said upper flange extending upwardly and said lower flange extending downwardly from said tape and positioned substantially perpendicular to said tape, and

said top side and said bottom side having identical graduated indicia extending along substantially the entire length of said tape, said indicia comprising a measuring scale.

2. A tape measure according to claim 1, further comprising an attachment clip.
3. A tape measure according to claim 1, wherein said graduated indicia are marked in 1/16 inch increments.
4. A tape measure according to claim 1, wherein the top side and bottom side of said tape are planar.
5. A tape measure according to claim 1, wherein the top side and bottom side of said tape are arcuate in cross section.